

Mineral Lands Comprehensive Plan Policies

GOAL: To protect and ensure appropriate use of gravel and mineral resources of the county, and minimize conflict between surface mining and surrounding land uses.

3.5 Policies

- 3.5.1 Support the conservation of mineral lands for productive economic use by identifying and designating lands of long-term commercial significance. ~~consistent with the 20-year planning horizon mandated by growth management.~~
- 3.5.2 Capital improvement plans should take into consideration maintaining and upgrading public roads adequate to accommodate transport of mineral commodities.
- ~~3.5.3 In identifying and designating commercial mineral lands, the following factors should be taken into consideration: geological, environmental and economic factors; existing and surrounding land uses; parcel size; and public service levels that are conducive to long-term production of mineral resources.~~
- 3.5.53 Encourage recycling of concrete, aggregate and other materials.
- 3.5.64 Encourage restoration of mineral extraction sites, ~~as the site is mined,~~ consistent with requirements identified in RCW 78.44.
- ~~3.5.7 Land shall not be used for any activity other than surface mining or uses compatible with mining until the gravel or mineral resource is commercially depleted, reasons for not mining the site are clearly demonstrated, or the site has been reclaimed.~~
- 3.5.85 Surface mining other than Columbia River dredging shall not occur within the 100-year Floodplain.
- 3.5.96 Mineral extraction operations shall be conducted in a manner, which will minimize the adverse effects on water quality, fish and wildlife, adjacent activities and the scenic qualities of the shorelines. Any adverse impacts shall be mitigated.
- ~~3.5.107~~ Land use activities adjacent to designated mineral resource lands should be located and designed to minimize conflicts with mineral activities on such lands.
- ~~3.5.118~~ Designated mineral operations of long-term commercial significance are not exempt from the normal environmental review process of the county or state agencies.
- 3.5.129 Establish notification standards and ~~programs~~ whereby residents of rural lands adjacent to designated mineral resource lands are informed that they are locating in a natural resource area, ~~and that~~ Resource uses will be subject to normal and accepted mining practices ~~that~~ and comply with federal, state and local regulations.
- ~~3.5.1310 Prior to~~ The county will establish specific criteria for the addition or removal of the surface mining designation; the landowner needs to show that the extraction of the mineral resource is not commercially feasible.
- ~~3.5.14 The county shall allow continued mining at existing active sites.~~

~~3.5.15 Potential aggregate sites or expansion shall not be designated within rural zoning categories.~~

3.5.11 The surface mining overlay shall not be designated within rural residential (R) zones except to allow expansion of an existing mining site.

~~3.5.16 Designation to alternative land uses at the time of reclamation shall take into consideration surrounding land uses and other policies of this 20-Year Plan.~~

~~3.5.17 Future land use designations for those areas designated Mineral Lands (Fisher Quarry and Section 30/31) should be made consistent with city land use and at the time of annexation.~~

~~3.5.18 Some level of processing should be associated with mineral extraction.~~

~~3.5.19 Future sites designated with a surface mining overlay shall be assessed on a case by case basis, based on the commercial or industrial value of the resource, and the relative quality and quantity of the resource as well as the following conditions:~~

~~the resource should be of a quality that allows it to be used for construction materials or meet applicable quality specifications for the intended use(s);~~

~~the resource should be of a quantity sufficient to economically justify development based upon the characteristics of the aggregate, life of the resource site, cost of extraction, accessibility, opportunity, type of transportation and the location of high demand areas; and,~~

~~designation of these mineral resource lands should follow the "Criteria for Designating Mineral Resources," as outlined in the Designation Criteria component of the Rural and Natural Resource Element.~~

~~3.5.20 Clark County's Shoreline Master Program shall be reevaluated for consistency with the Growth Management legislation and Clark County's 20-Year Comprehensive Growth Management Plan. Any areas of inconsistency shall be reviewed and resolved with either modification of the Shoreline Master Program or Comprehensive Plan policies, which ever is more appropriate.~~

STRATEGIES FOR RESOURCE LANDS

Maintain an inventory of gravel and mineral resource sites. The inventory should comprise consist of a map showing areas designated with the surface mining overlay and active mining sites.

~~a list of designated sites;~~

~~a list of "potential" sites for which information about the quality and quantity of the site is not adequate to allow a determination of long term commercial significance;~~

~~a list of current sites; and,~~

~~a list of active sites.~~

40.560.020 Changes to Districts, Amendments, Alterations

A. Procedure, General. The UDC may be amended in any of the following ways:

1. By changing the boundaries of districts through a Type III map amendment (rezone) where the proposed zoning is consistent with the current comprehensive plan map designation;
2. By adding or removing the surface mining overlay through a Type III map amendment.
3. By changing the boundaries of districts through a Type IV comprehensive plan map and zoning map amendment pursuant to Section 40.560.010; or
4. By changing code text through a Type IV text amendment, whenever the public health, safety and general welfare requires such an amendment. Such a change may be proposed by the board on its own motion or by motion of the planning commission, or by petition as hereinafter set forth. Any such proposed amendment or change shall first be submitted to the planning commission and it shall, within ninety (90) days after a hearing, recommend to the board approval, disapproval or modification of the proposed amendment.

(Amended: Ord. 2007-09-13)

B. Application.

1. Type III Map Amendments. Type III map amendments shall follow the Type III application procedures described in Section 40.510.030.
2. An application for amendment by a property owner or his authorized agent shall be filed with the responsible official. The application shall be made on forms provided by the county, accompanied by a site plan drawn to scale showing the property involved and adjacent land. A fee shall be paid to the county at the time of filing the application in accordance with the provisions of the county fee schedule.

(Amended: Ord. 2007-09-13)

C. Public Hearings.

1. Type III Map Amendments. Type III map amendments shall follow the Type III public hearing procedures described in Section 40.510.030.
2. Type IV Text Amendments.
 - a. Before taking final action on a proposed amendment, the planning commission shall hold a public hearing thereon. After receipt of the report on the amendment from the planning commission, the board shall hold a public hearing on the amendment. Public hearings by the planning commission shall be held in accordance with the provisions of Section 40.510.040.
 - b. Resubmittal. In a case where a petition for an amendment is denied by the board, said petition shall not be eligible for resubmittal for one (1)

year from the date of said denial, unless such denial was specifically stated to be without prejudice. A new petition affecting the same property must be, in the opinion of the planning commission and the board, substantially different from the petition denied to be eligible for consideration within one (1) year from the date of said denial, unless the first denial was denied without prejudice, or the planning commission finds that conditions have changed to an extent that further consideration is warranted.

(Amended: Ord. 2007-09-13)

D. Record of Amendments.

The signed copy of each amendment to the text and map of this title shall be maintained on file in the office of the responsible official.

(Amended: Ord. 2007-09-13)

E. Rezone Agreements.

1. The purpose of this subsection is to allow for the implementation of the comprehensive plan policies relating to future commercial centers and industrial developments, as appropriate. If, from the facts presented, and the findings, report and recommendations of the planning commission as required by this section thereof, the board determines that the public health, safety and general welfare will be best served by a proposed change of zone, the board may indicate its general approval, in principle, of the proposed rezoning by the adoption of a "resolution of intent to rezone" the area involved. This resolution shall include any conditions, stipulations or limitations which the board may feel necessary to require in the public interest as a prerequisite to final action. The fulfillment of all conditions, stipulations and limitations contained in said resolution, on the part of the applicant, shall make such a resolution a binding commitment on the board. Such a resolution shall not be used to justify spot zoning, to create unauthorized zoning categories by excluding uses otherwise permitted in the proposed zoning, or by imposing setback, area or lot coverage restrictions not specified in the code for the zoning classification, or as a substitute for a variance. Upon completion of compliance action by the applicant, the board shall, by ordinance, effect such rezoning. The failure of the applicant to meet any or all conditions, stipulations or limitations contained in the resolution, including the time limit placed in the resolution, shall render the resolution of intent to rezone null and void, unless an extension is granted by the board upon recommendation of the planning commission. Generally, the time limitation shall be one (1) year. The board may grant up to five (5) one (1) year extensions, after which the resolution shall be null and void if all conditions, stipulations and limitations have not been met by the applicant.
2. Concomitant Rezone Agreements.
 - a. Purpose. The purpose of this subsection is to explicitly provide for the use of agreements concomitant to rezone approvals. The agreement may call for performance by the applicant which is directly related to public needs which may be expected to result from the proposed usage

of the property. The performance called for will mitigate the public burden in meeting those resulting needs by placing it more directly on the party whose property use will give rise to such needs. The agreement shall generally be in the form of a covenant running with the land. The provisions of the agreement shall be in addition to all other pertinent Clark County Code requirements.

- b. **Applicability.** This agreement process will not generally be used for rezones to R1-6, R1-7.5, R1-10 or R1-20. It may, however, be used for any situation where extraordinary potential adverse impacts from a proposed rezone may be neutralized by the agreement. The agreement process may be employed for rezones in sensitive geographic areas such as critical transportation corridors. The agreement process will generally be used for rezones to commercial, industrial, and non-single-family residential not specifically identified by the comprehensive plan map. Airport zoning shall also generally be by concomitant rezone agreement. The intent is that concomitant rezone agreements shall only be used when normal review and approval procedures are not adequate to resolve the specific issues involved in the rezone proposal.
- c. **Mitigating Measures.** The agreement may include mitigating measures such as:
 - (1) Access control;
 - (2) Landscaping, screening, buffering;
 - (3) Improvements to public services including drainage, sewer, water and roads;
 - (4) Lot coverage, dimension;
 - (5) Phasing of development.
- d. **Concept Plan.** A concept plan may be required. When required, the concept plan shall be drawn to a one (1) inch to one hundred (100) foot scale and include:
 - (1) General location of structures;
 - (2) Location and number of access points;
 - (3) Approximate gross floor area of structures;
 - (4) Name of the proposal;
 - (5) Identification of areas requiring special treatment due to their sensitive nature;
 - (6) North directional arrow; and
 - (7) Names and location of all public streets or roads bordering the site.
- e. **Application Procedure.** The applicant may propose an agreement concomitant to rezone approval at the time of or after a pre-application conference with the responsible official. The proposed agreement shall include any proposed mitigating measures and concept plan as provided for by Sections 40.560.020(E)(2)(c) and (d). In cases where a

specific project is to be considered in conjunction with a rezone request, the responsible official shall review the site plan.

- f. **Modifications.** Modifications which are minor and without major impact may be approved by the board or its duly authorized representative, administratively and without public hearing. Any other modifications shall only be approved after the same procedure applicable to all rezones has been followed, including a public hearing.
- g. **Enforcement.** The agreement shall provide for appropriate enforcement mechanisms and performance guarantees.

(Amended: Ord. 2007-09-13)

F. Release of Concomitant Rezone Agreements.

- 1. Upon petition by the property owner, a concomitant rezone covenant may be fully or partially released, or modified, by the hearing examiner following a public hearing with notice as prescribed by Section 40.510.030 and in accordance with the criteria set forth in this section; provided, that if no development has occurred pursuant to a covenant entered into prior to July 1, 1980, such covenant may be fully released and the property subjected to all applicable standards and provisions of the current zoning ordinance by the board at a public meeting if it appears that no substantive issues are raised under the following criteria.
- 2. In considering requests for release or modification of concomitant rezone covenants, the review authority shall consider the following:
 - a. In the case of full covenant release, whether development of the site would be consistent with current zoning regulations and comprehensive plan recommendations; and
 - b. In the case of either full or partial covenant release or covenant modification, whether adequate public/private services are available to support development of the site; and
 - c. In the case of either full or partial covenant release or covenant modification, whether the requested action would unreasonably impact development undertaken on nearby properties in reliance upon the covenant commitments; and
 - d. In the case of partial covenant release or covenant modifications, whether future development under current zoning will be consistent with existing and planned development.

(Amended: Ord. 2007-09-13)

G. Approval Criteria.

- 1. ~~Zone changes~~ Changes to the zoning map, except for changes to the Surface Mining Overlay, may be approved only when all of the following are met:
 - a. Requested zone change is consistent with the comprehensive plan map designation.

- b. The requested zone change is consistent with the plan policies and locational criteria and the purpose statement of the zoning district.
 - c. The zone change either:
 - i. Responds to a substantial change in conditions applicable to the area within which the subject property lies;
 - ii. Better implements applicable comprehensive plan policies than the current map designation; or
 - iii. Corrects an obvious mapping error.
 - d. There are adequate public facilities and services to serve the requested zone change.
2. The Surface Mining Overlay may be applied to an area if both of the following conditions are met:
- a. The site is 5 acres or larger.
 - b. The proponent submits data from test pits or borings which confirms the presence of a significant aggregate resource.
3. The Surface Mining Overlay may be removed from an area if one of the following conditions is met:
- a. The aggregate resources have been depleted; or
 - b. There is evidence that mining of the aggregate resource is not economically feasible; or
 - c. Environmental constraints make it impractical to mine the resource; or
 - d. The area has been brought into an urban growth boundary or adjacent land uses or developments are incompatible with mineral extraction.

(Amended: Ord. 2008-06-02)

40.250.020 SURFACE MINING OVERLAY DISTRICT

(Repeal current 40.250.020 and replace)

A. Purpose.

The purpose of the surface mining overlay district is to ensure the continued availability of rock, stone, gravel, sand, earth and mineral products without disrupting or endangering adjacent land uses, while safeguarding life, property and the public welfare.

B. Applicability.

1. The provisions in this section shall apply to parcels designated with the surface mining overlay.
2. The provisions of this section shall apply only to new applications for new site plan approval. Operation of existing surface mines and related uses shall conform to the conditions of approval adopted with their site plan approval.
3. Provisions of RCW 78.44 and WAC 332-18 pertaining to surface mining that are applicable to Clark County are adopted by reference.

C. Uses.

1. Permitted uses. In addition to uses allowed in the underlying zoning district, the following uses are permitted in the surface mining overlay district:
 - a. Extractions from deposits of rock, stone, gravel, sand, earth and minerals.
 - b. Asphalt mixing;
 - c. Concrete batching;
 - d. Clay bulking;
 - e. Rock crushing, processing and stockpiling; and
 - f. Temporary offices, shops or other accessory buildings and structures used for the management and maintenance of onsite mining and processing equipment.
2. Conditional uses that are allowed in the underlying zoning district are allowed in the surface mining overlay district.

D. Standards.

1. Access roads into the site shall be gated, and, at a minimum, the portion of the site being mined shall be fenced and posted.
2. Maximum permissible noise levels must be in accordance with the provisions of WAC 173-60 or as identified in the SEPA document.
3. Hours of operation.
 - a. No operations shall take place on Sundays or on the following legal holidays: New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day and Christmas Day.
 - b. Mining, processing, loading, hauling, batch plant operation, drilling, and all activities that include the use of equipment with audible (beeping) back-up alarms are restricted to the hours of 7:00 a.m. to 6:00 p.m. Monday through Friday and 8:00 a.m. to 5:00 p.m. Saturday.
 - c. Blasting is restricted to the hours of 9:00 a.m. to 4:00 pm Monday through Friday.
 - d. Maintenance activities may be performed outside the normal hours of operation, provided that equipment with audible (beeping) back-up alarms are not used and noise levels meet the standards in Section 40.250.020(D)(2).

- e. Loading and hauling of rock products outside of normal hours of operation may be approved by the responsible official through a Type I process, provided that:
 - (1) the applicant provides notice to the county such that the county can provide notice to property owners within one-half (1/2) mile of the mining limits and to owners of all parcels abutting local access roads to be used for hauling that are between the site and roads designated in the Arterial Atlas as connectors, arterials, or State highways at least ten (10) days prior to the event;
 - (2) noise levels at the property line will not exceed 50 dBA when measured as per WAC 173-60;
 - (3) all equipment used as the least intrusive back-up alarms allowed by the Mining Safety and Health Administration (MSHA); and
 - (4) the applicant provides proof that the contract is for a public purpose and requires delivery of rock products outside of normal operating hours.
- 4. Stormwater and erosion control must meet the standards of Chapter 40.385.
- 5. Proposed blasting and mining activities must not adversely affect the quality or quantity of groundwater or wells cause damage to offsite structures.
- 6. Notice of blasting events shall be provided by the operator to property owners within one-half (1/2) mile of the mining limits by mail at least seven (7) days prior to blasting or by electronic communication at least twenty-four (24) hours prior to blasting.
- 7. Mining activities must not cause unreasonable external effects such as offensive odors, increased lighting or glare, dust, smoke or vibration (except for blasting) detectable to normal sensory perception at the property line.
- 8. Pavement wear agreements may be required for public roads used to access the site. Public access roads to mining and quarrying sites must be maintained and located to the satisfaction of the director of public works, to minimize problems of dust, mud, potholes, runoff and traffic safety.
- 9. Internal access roads within one hundred (100) feet of a paved county road or state highway shall be paved, oiled or watered. Internal access roads within two hundred, fifty (250) feet of a residence existing at the time of site plan approval shall be paved, oiled, or watered
- 9. The applicant shall demonstrate that all water necessary for the proposed operation has been appropriated to the site or is legally available.
- 10. The county may impose additional special conditions to resolve issues specific to an individual site.

E. Plan Approval.

- 1. Site plan approval is required prior to any surface mining use.
- 2. Notice shall be sent to owners of property within a radius of one (1) mile of the site and to owners of all parcels abutting local access roads to be used for hauling that are between the site and roads designated in the Arterial Atlas as collectors, arterials or State highways.
- 3. For those uses permitted under Section 40.250.020(C)(1)(a) through (e), the responsible official shall review and approve plans, specifications, and other supporting data through a Type II-A review process pursuant to Section 40.510.025. Temporary uses described in Section 40.250.020(C)(1)(f) can be approved through a Type 1 procedure.
- 4. A hearing shall be held within twelve (12) months of the approval of any uses permitted under Section 40.250.020(C)(1) and at intervals thereafter to be

determined by the Hearings Examiner. Public hearing notice and procedures shall be conducted pursuant to Section 40.510.030. The scope of these hearings shall be limited to:

- a. assessing whether the conditions of approval were adequate or necessary to mitigate the actual impacts of the use;
- b. determining whether the conditions of approval have been met; and
- c. evaluating the effectiveness of any monitoring programs.

F. Plans and Specifications.

Plans shall be drawn to an engineer's scale and shall be of sufficient clarity to indicate the nature and extent of the work proposed, and show in detail that they will conform to the provisions of this section and all other relevant laws, ordinances, rules and regulations. The first sheet of each set of plans shall give the location of the work, and the names and addresses of the owner and the person by whom they were prepared. The plans shall include the following minimum information:

1. General vicinity maps of the proposed site.
2. Property boundaries and accurate contours of existing ground, details of terrain, and details of area drainage.
3. Proposed elevations and contours of the greatest extent of the proposed mining and proposed drainage channels and related construction.
4. Detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams, berms, settling ponds and other protective devices to be constructed with or as a part of the proposed work, together with the maps showing the drainage area and the estimated runoff of the area served by any drains
5. Location of any buildings or structures on the property where the work is to be performed, and the location of any buildings or structures on land of adjacent property owners which are within two hundred (200) feet of the property, or which may be affected by the proposed operation.
6. Stormwater calculations and proposed treatment facilities for runoff from access roads and impervious areas not within the mine.
7. A hydrogeology report which characterizes the groundwater and surface water and identifies wells within one-half mile of the proposed mining limits; and a monitoring and mitigation plan if impacts are anticipated to offsite properties.

40.260.120 Mines, Quarries and Gravel Pits

~~Extractions from deposits of rock, stone, gravel, sand, earth, minerals, or building or construction materials shall not be construed to be permitted uses in any district established by this title except as provided in specific districts, unless a surface mining overlay district has been obtained, as provided for in Section 40.250.020, except for on-site excavation and grading in conjunction with a specific construction or improvement project. Odor, dust, noise or drainage shall not be permitted to create or become a nuisance to surrounding property. The responsible official may approve a request for an aggregate extraction for a single construction project for a period not to exceed ten (10) days in operation and not requiring a state permit, in accordance with Section 40.260.220, Temporary Uses.~~

